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5 **SUPERIOR COURT OF THE STATE OF ARIZONA**

6 **IN AND FOR THE COUNTY OF COCONINO**

7 TODD SERLIN

Case No.

8 vs.

9 XANTERRA PARKS & RESORTS,  
 10 INC., a Delaware corporation authorized  
 to conduct business in the State of  
 11 Arizona; JOHN DOES I through V; JANE  
 DOES I through V; BLACK  
 12 CORPORATIONS I through V; WHITE  
 PARTNERSHIPS I through V; and  
 13 GREEN LIMITED LIABILITY  
 COMPANIES I through V,

14 Defendants.

15 **COMPLAINT**

16 **(Tort – Non-Motor Vehicle)**

17 **(Tier 2 Case)**

18 Plaintiff, TODD SERLIN (hereinafter referred to as “Todd”), by his undersigned  
 19 attorneys, for his Complaint against Defendant XANTERRA PARKS & RESORTS,  
 INC., a Delaware corporation, authorized to conduct business in the State of Arizona  
 (“Xanterra”) alleges as follows:

20 **GENERAL ALLEGATIONS**

21 1. Todd is, and at all times relevant to this Complaint was, a resident of Los  
 22 Angeles County, California.

23 2. Xanterra is, and at all times herein mentioned was, a Delaware corporation  
 24 authorized to transact business in the State of Arizona.

25 3. Upon information and belief, Xanterra is the owner of the El Tovar  
 26 Restaurant located at 1 El Tovar Rd, Grand Canyon, Arizona (the “Restaurant”).

27 4. The true names of Defendants identified as John Does I through V; Jane  
 28 Does I through V; Black Corporations I through V; White Partnerships I through V; and

1 Green Liability Companies I through V are currently unknown to Todd, and when he  
2 ascertains the true names of said Defendants, he will amend this Complaint to set forth  
3 same.

4 5. The acts and events complained of herein occurred in Coconino County,  
5 Arizona.

6 6. On December 27, 2016 at approximately 6:30 p.m., Todd and his partner,  
7 Mark Bauer (“Mark”), were guests at the El Tovar Hotel and patrons at the Restaurant  
8 while vacationing at the Grand Canyon. They had planned to stay overnight and then be  
9 on their way back to California to continue their vacation into New Year’s Eve.

10 7. While dining at the Restaurant, Todd questioned the waitress several times  
11 to confirm that the French soup on the menu could be prepared gluten-free. The waitress  
12 reassured Todd that the Soup could be prepared gluten-free by removing the crouton and  
13 specifically mentioned that the kitchen was equipped with an area to prepare foods for  
14 people with gluten allergies. Todd asked the waitress to confirm with the chef that there  
15 was no gluten in the base of the Soup. After receiving final confirmation from the chef,  
16 Todd felt assured that the Soup was gluten-free and ordered that along with a duck entree  
17 with rice (rice pilaf was not gluten-free and Todd switched) and vegetables.

18 8. At the time Todd suffered from Celiac Disease (an autoimmune disorder  
19 where gluten foods damage the small intestines). Therefore, he is extremely careful not  
20 to consume any foods that contain gluten.

21 9. During dinner, Todd ate what he believed to be gluten-free food.

22 10. Within 1-2 hours following dinner, Todd was not feeling well and  
23 progressively throughout that evening, his symptoms intensified into waves of nausea,  
24 radiating abdominal pain, a migraine headache, vomiting, and then diarrhea.

25 11. It was later determined that the Restaurant served Todd food that contained  
26 gluten.

1           12. As a result of the foregoing, Todd suffered severe and permanent personal  
2           injuries more fully discussed *infra*.

3           **FIRST CAUSE OF ACTION**

4           13. Todd restates and realleges the allegations set forth in paragraphs 1 through  
5           12 as if they were fully set forth herein.

6           14. The direct and proximate cause of Todd's injuries was Xanterra's  
7           negligence in serving Todd food that contained gluten.

8           15. Xanterra's negligence caused serious personal injuries to Todd that  
9           included, but were not limited to: gastroenteritis, nausea, dehydration, damage to his  
10           pancreas, diabetes, and emotional distress.

11           16. As a further direct and proximate cause of Xanterra's negligence, Todd has  
12           suffered, and will continue to suffer, for an indefinite time, great pain, suffering,  
13           significant discomfort and loss of quality of life.

14           17. As a further direct and proximate cause of Xanterra's negligence in serving  
15           food that contained gluten, Todd has incurred, and will expect to incur, further expenses  
16           for necessary medical care and treatment for the rest of his life.

17           WHEREFORE, Plaintiff demands Judgment against Defendants and each of them,  
18           for damages in an amount to be proven at trial, plus costs incurred herein and interest at  
19           the legal rate on the foregoing amounts, and such other further relief as the Court deems  
20           just on the premises.

21           DATED this 6<sup>th</sup> day of March 2019.

22           **HYMSON GOLDSTEIN PANTILIAT & LOHR, PLLC**

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25           Eddie A. Pantiliat  
26           Lori N. Brown  
27           Attorneys for Plaintiff